

Mail Stop Interference  
P.O. Box 1450  
Alexandria Va 22313-1450  
Tel: 571-272-4683  
Fax: 571-273-0042

Paper 1  
Filed: 17 June 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

RICHARD HARKINS, DEBORAH PARKES, GORDON PARRY,  
RENATE PARRY, AND DOUGLAS W. SCHNEIDER

Junior Party  
(U.S. Application 10/624,884),

v.

SHUJATH M. ALI, YONGMING SUN, SUSANA SALCEDA,  
HERVE RECIPON, AND ROBERT CAFFERKEY

Senior Party  
(U.S. Patent 7,364,862).

---

Patent Interference No. 105,635 (MPT)  
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)<sup>1</sup>

---

<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           Part A. Declaration of interference

2           An interference is declared (35 U.S.C. § 135(a)) between the above-  
3 identified parties. Details of the application(s), patent (if any), reissue application  
4 (if any), count(s) and claims designated as corresponding or as not corresponding  
5 to the count(s) appear in Parts E and F of this DECLARATION.

6           Part B. Judge managing the interference

7           Administrative Patent Judge Michael P. Tierney has been designated to  
8 manage the interference. Bd. R. 104(a).

9           Part C. Standing order

10          A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
11 DECLARATION. The STANDING ORDER applies to this interference.

12          Part D. Initial conference call

13          A telephone conference call to discuss the interference is set for 2:00 p.m.  
14 on August 5, 2008 (the Board will initiate the call).

15          No later than four business days prior to the conference call, each party shall  
16 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
17 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

18          A sample schedule for taking action during the motion phase appears as  
19 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the

- 1 schedule prior to the conference call and to agree on dates for taking action. A
- 2 typical motion period lasts approximately eight (8) months. Counsel should be
- 3 prepared to justify any request for a shorter or longer period.

1 Part E. Identification and order of the parties

2 Junior Party

3 Named inventors: RICHARD HARKINS, ALAMEDA, CA  
4 DEBORAH PARKES, HAYWARD, CA  
5 GORDON PARRY, OAKLAND, CA  
6 RENATE PARRY, OAKLAND, CA  
7 DOUGLAS W. SCHNEIDER, LAFAYETTE, CA

8 Involved Application: U.S. Application 10/624,884, filed July 22, 2003

9 Title: METHODS FOR DETECTING DISEASE-STATE  
10 ASSOCIATED WITH RG1 POLYPEPTIDE  
11 EXPRESSION

12 Assignee: Bayer Schering Pharma Aktiengesellschaft  
13

14 Senior Party

15 Named Inventors: SHUJATH M. ALI, SANTA CLARA, CA  
16 YONGMING SUN, SAN JOSE, CA  
17 SUSANA SALCEDA, SAN JOSE, CA  
18 HERVE RECIPON, SAN FRANCISCO, CA  
19 ROBERT CAFFERKEY, SAN JOSE, CA

20 Involved Patent: U.S. Patent No. 7,364,862, issued April 29, 2008, based  
21 U.S. Application 10/929,973, filed August 30, 2004.

22 Title: METHOD OF DIAGNOSING, MONITORING,  
23 STAGING, IMAGING AND TREATING PROSTATE  
24 CANCER

25 Assignee: Diadexus, Inc.  
26



1 The parties are accorded the following benefit for Count 1:

2 Ali:

- 3 i) U.S. Application 09/807,200, filed May 29, 2001, now
- 4 U.S. Patent 6,960,433, issued November 1, 2003;
- 5 ii) PCT US99/23764, filed October 18, 1999;
- 6 iii) U.S. Provisional Application 60/104,741, filed
- 7 October 19, 1998.

8

9 Harkins:

- 10 i) U.S. Application 09/732,357, filed December 7, 2000,
- 11 now U.S. Patent 6,682,902, issued January 27, 2004;
- 12 ii) U.S. Provisional Application 60/172,370, filed
- 13 December 16, 1999.

1  
2 Part G. Heading to be used on papers

3 The following heading must be used on all papers filed in this interference,  
4 see SO ¶ 106.1.1:

5 UNITED STATES PATENT AND TRADEMARK OFFICE  
6  
7

8  
9 BEFORE THE BOARD OF PATENT APPEALS  
10 AND INTERFERENCES  
11

12  
13 RICHARD HARKINS, DEBORAH PARKES, GORDON PARRY,  
14 RENATE PARRY, AND DOUGLAS W. SCHNEIDER

15 Junior Party  
16 (U.S. Application 10/624,884),  
17

18 v.  
19

20 SHUJATH M. ALI, YONGMING SUN, SUSANA SALCEDA,  
21 HERVE RECIPON, AND ROBERT CAFFERKEY

22 Senior Party  
23 (U.S. Patent 7,364,862).  
24 Patent Interference No. 105,635 (MPT)  
25 (Technology Center 1600)  
26  
27  
28

1 Part H. Order form for requesting file copies

2 When requesting copies of files, use of SO Form 4 will greatly expedite  
3 processing of the request. Please attach a copy of Parts E and F of this  
4 DECLARATION with a hand-drawn circle around the patents and applications for  
5 which a copy of a file wrapper is requested.

6  
7 /Michael P. Tierney/  
8 Administrative Patent Judge

9 Enc:

10 Copy of STANDING ORDER  
11 Form PTO-850  
12 Copy U.S. Patent 7,364,862  
13 Copy of claims of 10/624,884  
14

15 Revised 3 January 2006

1 cc (via overnight delivery):  
2

3 Attorney for HARKIN:  
4

5 MANDEL & ADRIANO  
6 Suite 203  
7 572 East Green Street  
8 Pasadena, CA 91101  
9

10 Attorney for ALI:  
11

12 LICATA & TYRRELL, P.C.  
13 66 E. Main Street  
14 Marlton, NJ 08053  
15 Tel: 856-810-1515  
16 Fax: 856-810-1454  
17 Email: poreilly@licataandtyrell.com  
18